Received on	21/02/2022
Registered on	24/02/2022
Decided on	02/05/2026
Duration	**04 Y. 02 M. 11 D.**

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, WASHIM.
[Presided over by Anil Subramaniam]

Civil M. A. No. 15/2022 **Exh. No. 18**
CNR No. MHWS01003402022

1)	Afsarkhan Ayyubkhan Fauji, Aged about 57 years, Occu. Agriculturist, R/o. Chunapura, Karanja Lad, Dist. Washim.	
2)	Jahangirkhan Ayubkhan, Aged about 41 years, Occu. Agriculturist, R/o. Old Government Hospital, Karanja, Dist. Washim.	
3)	Akbarkhan Ayubkhan, Aged about 50 years, Occu. Agriculturist, R/o. Chunapura, Karanja Lad, Dist. Washim,	
4)	Iliaskhan Ayubkhan, Aged about 47 years, Occu. Agriculturist, R/o. Old Government Hospital, Karanja Lad, Dist. Washim.	
5)	Irshadkhan Ayubkhan, Aged about 38 years, Occu. Agriculturist, R/o. Old Government Hospital, Karanja, Dist. Washim.	
6)	Ajharkhan Ayubkhan, Aged about 33 years, Occu. Agriculturist, R/o. Rajpura, Karanja, Dist. Washim.	
7)	Nikhatsultana Ayubkhan (name before marriage) Nikhat Sultanan Abdul Rafique (name after marriage), Aged about major, Occu. Household, R/o. Budhwara, Anjangaon Surji, Dist. Amravati.	

8)	Shabana Sultana Ayubkhan (name before marriage), Shabana Sultana Abrar Ahmed Khan (name after marriage), Aged about 41 years, Occu. Household, R/o. Old Government Hospital, Karanja, Dist. Washim.	**… Petitioners.**
9)	Anwarkhan Ayubkhan, Aged about 57 years, Occu. Service, R/o. Old Government Hospital, Karanja, Dist. Washim.	
10)	Afsanaparveen Ayubkhan (name before marriage), Afsanabegum Sabir Ahmed (name after marriage), Aged about 42 years, Occu. Household, R/o. Head office, Postal Colony, Quarter No. B-7, Civil Lines, Akola, Dist. Akola.	
11)	Ruksanasultana Ayubkhan, (name before marriage), Ruksanabi Naimkhan (name after marriage), Aged about 43 years, Occu. Household, R/o. Kokatkhel, near Afsar Kirana, Anjangaon Surji, Dist. Amaravati.	
12)	Ajgarkhan Ayubkhan, Aged about 44 years, Occu. Agriculturist, R/o. Rajpura, Karanja, Dist. Washim.	
13)	Ashiyaparveen wd/o. Nasirkhan, Aged about 44 years, Occu. Household, R/o. Chunapura, Karanja, Dist. Washim.	
14)	Aniskhan Nasirkhan, Aged about 25 years, Occu. Agriculturist, R/o. Chunapura, Karanja, Dist. Washim. All 12 to 14 through power of attorney holder applicant No. 1 Afsarkhan Ayyubkhan Fauji.	
15)	Mujahidkhan S/o. Nasirkhan, Aged about 18 years, Occu. Education,	

	R/o. Chunapura, Karanja, Dist. Washim.	
16)	Arshiyakhan D/o. Nasirkhan, Aged about 20 years, Occu. Education, R/o. Chunapura, Karanja, Dist. Washim.	
	VERSUS	
1)	Maharashtra State Road Development Corporation Ltd., Through its Chairman, opposite Wandre Reclamation Depot, Near Leelavati Hospital, K. C. road, Wandre (West) – 50	
2)	Collector, Washim, Dist. Washim.	
3)	Sub-Divisional Officer and Land Acquisition Officer, Karanja, Dist. Washim.	
4)	Divisional Commissioner, Amravati Division, Amravati.	... **Respondents.**

APPLICATION UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT.

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Appearance:-

Mr. G. V. Biyani, Advocate for the applicants.
Mr. R. S. Joshi, Advocate for respondent No. 1.
Mr. R. K. Ramteke, Advocate for respondent Nos. 2 to 4.

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JUDGMENT

(Dated 02/05/2026)

1. By the present application, the applicant is praying for setting aside the award relating to following land has been acquired by the Highways Authority for the reasons stated therein land with details as under.

Village	Award No	Dated	Gat No.	Area.
Bhilkheda	Arbitration Petition No. 65 /Samruddhi Mahamarg/Bhilkheda/Tq. Karanja/Dist. Washim/ 2019-20	04/10/2021	3/3	0.2236 H. R.

2. The Ld. Land Acquisition Officer (LAO) granted compensation at the rate stated in the LAO's order.
3. Being aggrieved thereto, the applicant preferred objection and the matter was referred for Arbitration as contemplated under Highway Act. The grounds taken are that, the compensation is less, belt system is followed incorrectly, amount of 12 % as per Section 33 is not granted, statutory easement compensation is not granted, severance charges are not granted etc. Hence, prayed for enhancement.
4. The Ld. Arbitrator after hearing the parties, rejected the claim. Hence, the present proceeding.
5. Heard both sides. Perused the documents available on record. Considered the submissions. Following points arise for my consideration and I answer the same as under for the reasons stated hereinafter.

Sr. No.	Points	Findings
1]	Whether the impugned award requires any interference and is required to be set aside on grounds stated in Section 34 ?	**... In the affirmative.**
2]	What order ?	**... As per final order.**

<u>REASONS</u>

<u>As to Point No. 1</u> :-

6. The National and the State Act has been enacted to provide for the declaration of certain highways to be national or state highways respectively and for matters connected therewith. The Act under which the lands in question have been acquired and especially is in the nature of a comprehensive code in itself for the purposes of acquisition of lands which includes determination of compensation,

its disbursement, settlement of disputes and payment of compensation. The determination of the amount of compensation by the Competent Authority has been made subject to enhancement/reduction by having recourse to arbitration under the respective Highway Act.

7. Since The respective Highway Act makes the provisions of the Arbitration Act of 1996 applicable, remedy under Section 34 of the Act of 1996 is available to the party aggrieved by the award passed by the Arbitrator. It may be noted that Chapter VII of the Act of 1996 in which Section 34 finds place refers to recourse against an arbitral award. Section 34 far from being an appellate provision only provides for setting aside awards on very limited grounds.

8. In this proceeding the challenge to the arbitral award is principally based on the provisions of Section 34(2)(b)(ii) of the Arbitration Act of 1996 namely that the arbitral award as passed is in conflict with the public policy of India. The main principle grounds for challenge are that the award is violation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act, 2013).

9. The grounds raised are

a) Belting method has been used without any basis.

b) Proper NA characteristics of property not considered

c) Incorrect ready reckoner rates considered

d) Sale instances of higher consideration are not considered.

e) 12 % additional market value under Section 13(3) should be considered.

f) Easement compensation not awarded.

g) Severance Compensation is not given.

h) Proper documents are not received.

i) The award is non speaking award and the process is illegal.

10. The claim is resisted by the respondent highway acquiring body contending that the provisions contemplated by Law are duly followed. The Competent Authority has considered and followed all the conditions complying with the various directions and arrived at just and proper compensation. Belting method is approprite method approved by the Courts. The Court cannot re-appreciate and re-consider the evidence. The market rate is properly appreciated. Proper and well defined reasoning has been given. Proper sale instances have considered. There is no violation of easementary rights and rehabilitation. Considering the said reasons, application be rejected.

11. In ***Ssangyong Engineering and Construction Company Limited v National Highways Authority of India (NHAI),(2019) 15 SCC 131*** it has been held that the provisions of Section 34 as amended by Act No.3 of 2016 would apply only to Section 34 applications that have been made to the Court on or after 23.10.2015 even if the arbitration proceedings may have commenced prior to that date. It is thus clear that the provisions of Section 34 after being amended by Act No.3 of 2016 would have to be considered while adjudicating the challenge to the awards passed by the Arbitrator.

12. Having considered this circumstances, it is necessary to consider scope of the said ground of violation of provisions of RFCTLARR Act. The RFCTLARR Act contemplates determination of market value and it can consider ready-reckoner, average sale price. This has contemplates under Section 6 of the said Act. It is further pointed out that it is necessary to point out that the Highway Act also

contemplates that the Arbitrator is also to consider market value of the property. Thus, what one has to consider is if the Arbitrator has considered market value or not any in proper prospective applying proper principles or whether basis adopted is proper or not. I cannot reconsider factual facts but certainly the principles of grant of compensation would be under the term “Public policy”.

13. In ***Associate Builders vs Delhi Development Authority 2014 AIR SCW 6861*** it is held that “

“29. It is clear that the juristic principle of a “judicial approach” demands that a decision be fair, reasonable and objective. On the obverse side, anything arbitrary and whimsical would obviously not be a determination which would either be fair, reasonable or objective.”

31. The third juristic principle is that a decision which is perverse or so irrational that no reasonable person would have arrived at the same is important and requires some degree of explanation. It is settled law that where: (i)a finding is based on no evidence, or (ii)an Arbitral Tribunal takes into account something irrelevant to the decision which is arrives at; or (iii) ignores vital evidence in arriving at its decision, such decision would necessarily be perverse.”

“33. It must clearly be understood that when a Court is applying the “public policy” test to an arbitration award, it does not act as a Court of appeal and consequently errors of fact cannot be corrected. A possible view by the arbitrator on facts has necessarily to pass muster as the arbitrator is the ultimate master of the quantity and quality of evidence to be relied upon when he delivers his arbitral award. Thus an award based on little evidence or on evidence which does not measure up in quality to a trained legal mind would not be held to

be invalid on this score……..Once it is is found that the arbitrators approach is not arbitrary or capricious, then he is the last word on facts.

14. The arbitration herein was initiated under a statutory provision which provides for such arbitration in lieu of 'reference' under the regime for acquisition of land for public purpose. One of the parties to such arbitration proceedings would also be a land loser and the adjudication in the arbitration though appropriate Sections like 3G(7)(a) of the National Highways Act provides the parameters to be taken into consideration, it only provides the basic parameters to be taken note of, for determining the amount payable as compensation. While applying the said parameters for determination of compensation, since RFCTLARR Act, 2013 is also applicable as Highways Act and the factors as provided under Section 26 and 28 RFCTLARR Act, 2013 including the seventh factor will also be applicable in appropriate cases for the determination of the market value as fair compensation for the acquired land. When land is acquired from a citizen, Articles 300A and 31A of the Constitution will have to be borne in mind since the deprivation of property should be with authority of law, after being duly compensated and by adequately compensating the land loser keeping in view the market value. Though each enactment may have a different procedure prescribed for the process of acquisition, the principles of determining the compensation cannot be different as the market value of the land and the hardship faced due to deprivation of the property would be the same irrespective of the Act under which it is acquired or the purpose for which it is acquired. In that background, the award passed by the Arbitrator is to be examined keeping in view

the limited scope available under Section 34 of Act, 1996 to interfere with an award.

15. In this case, if the existence or genuineness or validity of any piece of evidence is not disputed by the other side, and the said factor definitely would have a bearing on the aspect of determination of the admissibility, relevance, materiality and weight of evidence produced. If any piece of evidence was disputed or doubted or any similar reason is put forth, the arbitral tribunal could require the party relying upon such piece of evidence to substantiate the same while determining the admissibility, relevance, materiality and weight of that piece of evidence. Same is not followed here. The sale deeds or Valuers reports were not challenged by the Authority before the Concerned Arbitrator except bare denial. There were specific pleadings in the claim petitions of the land owners and copies of documents relied were also supplied to the other side.

16. Further, the Acquiring Authority did not counter the aforesaid material by placing on record before the Arbitrator some other material which according to it could be the basis for determination of the market value of the acquired land. Under the Highway Act the Arbitrator is duty bound to take into consideration the market value of the land acquired as on the date of publication of the notification . When therefore, a claimant places certain material on record before the Arbitrator which material according to the claimant ought to be taken into consideration for determining the market value of the acquired land and that material is neither countered nor specifically disputed by the other side, there would hardly be any scope for the Arbitrator for not relying upon the material before him.

Valuation

17. The Ld. Arbitrator has considered sole consideration that Competent Authority for Land Acquisition (CALA) has assessed it at a particular rate and same is correct. The ready-reckoner rates are not considered for similar lands use. Thus, there are principle violation with regard to the assessment and analysis.
18. The International Valuation Standards Council states that the market value of the land represents the estimated amount that a willing buyer would pay prudently to a willing seller in an arm's length transaction, without compulsion, on a particular valuation date. This estimate includes characteristics unique to the land that would inflate or deflate its price but excludes special concessions or considerations granted by anyone associated with the sale. The buyer here refers to one who is motivated but is neither over- eager nor determined to buy irrespective of the price quoted. Similarly, the seller here is neither over-eager nor forced. Both parties are assumed to be conducting the transaction in keeping with market realities, rather than terms that are hypothetical or cannot be anticipated to exist.
19. The value of the land is determined by the vendor and the purchaser as in prevalent circumstance. That is market value. Certain lands may have some drawback or impediments like easementary rights, title rates, etc., but that may depreciate the market value, while other lands may have addition features like plain land, quality, ease of access, nearness of urban area, roads etc. But certainly, one cannot make it a incorrect valuation or non reliable valuation of the property. For it to be discarded in case of acquisition it should be shown to be malafide or inflated or some other cause to show it more. The people who purchased the property in the sale instance

referred to have not shown to be done so. Thus it has to be considered as a proper sale instances for consideration and cannot be discarded perse.

20. Apparently, plots are NA plots use declared by the Tahsildar. It is contended that the said plots lie in no development zone and hence, value at higher side cannot be considered. It is necessary to point out that what is meant by “no development zone” is that it does not fall in the notified development plan area. There is no law that prohibits “non agricultural use” only because it is not included in a development plan. The competent authorities are empowered to permit Non-Agri use. The orders passed by the of NA use of the land are not set aside by any of the authorities, even when they are so scrutinized by the authorities, including the authorities who are superior to the issuing authorities.

21. The valuation of plots nearby and sale deeds have been filed on record. Two of the valuation have been rejected only on the sole count that it is in in the “no development zone”. Having considered this, it appears that merely, because the land is not within the development plan of the Government does not imply that it does not have any value or no development can be carried out. The value of the land exists and subsists even beyond development zone. The acquired land and the proposed sale instance by the applicant fall within same category. The value of the land is determined by the vendor and the purchaser as in prevalent circumstance. That is market value. Certain lands may have some drawback or impediments like easementary rights, title rates, etc., but that may depreciate the market value, while other lands may have addition features like plain land, quality, ease of access, nearness of urban

area, roads etc. But certainly, one cannot make it a incorrect valuation or non reliable valuation of the property. For it to be discarded in case of acquisition it should be shown to be malafide or inflated or some other cause to show it more. The people who purchased the property in the sale instance referred to have not shown to be done so. Thus it has to be considered as a proper sale instances for consideration and cannot be discarded perse.

22. Apparently, considering all these circumstances and hence, it could be proper market value. By applying valuation method for the same. It is necessary to point out that even the authority have given higher rate in consensual sales. It now contended that said rate is not applicable as it is purchased by mutual consent of the NHAI and the land owners. It is certainly necessary to consider that NHAI being statutory authority, said purchase would have some guidelines or basis or foundation which is related to the market price of the land.

No development zone

23. There is no finding of ascertainment of similar instances as per this land adjacent to highway for such consideration. There are substantial difference in rates of lands under “no development zone” adjacent to highway and other agricultural lands. The properties are also being nearer to the Karanja city Nagar Parishad is not considered and blanket sale instances are considered.

24. In ***MADHYA PRADESH ROAD DEVELOPMENT CORPORATION VERSUS VINCENT DANIEL AND OTHERS 2025 INSC 408*** it is pointed out that Section 28 sets out the parameters to be considered by the Collector in determining the award. It refers to seven factors for computing the amount payable as compensation. The very first factor is the market value as determined under Section 26, and the

award amount computed in accordance with the First and the Second Schedules to the Acquisition Act, 2013. Other clauses cover damage sustained due to factors such as loss of standing crops or trees, severance of land, adverse effects on other property, loss of income, and costs or losses from change in residence or place of business. Losses, if any, bonafide resulting from the diminution of the profits are also to be accounted for. The seventh ground is particularly important. It states that the Collector can take into consideration any other ground which may be in the interest of equity, justice and beneficial to the affected families. This clause will not apply to reduce the market value of land determined under Section 26, but the Collector can apply it to enhance the market value in the interest of equity and justice if it is beneficial to the affected families

25. The procedure approved by the Hon'ble Supreme Court of India for fixing Circle Rates is as under and while working out the values of immovable property, the committees shall take into account the following facts namely :-

26. In The case of lands:-

a) classification of land as unirrigated or irrigated, diverted or non-diverted and the like;
b) classification under various categories in the settlements register;
c) the rate of revenue assessments for each classification;
d) other factors which influence the valuation of the land in question;
e) points, if any, mentioned by the parties to the instrument or any other person which required special consideration;
f) value of adjacent land or lands in vicinity;
g) average yield from the land, proximity to road and market, distance

from village site, level of land transport facilities, facilities available for irrigation in any form;

h) the nature of Crops raised on the land;

i) Use of land as residential, commercial or industrial;

j) the relative position of urban area and investment area or development of the town.

27. In case of house sites:-

a) The general value of house sites in locality;

b) Proximity to roads, railway stations, bus routes;

c) Proximity to market, shop and the like;

d) Amenities available in the place like, Public Offices, Hospitals and Educational Institutes;

e) Development activities, industrial improvements in the vicinity;

f) Any special feature having a special bearing on the valuation of the site; and

g) Commercialization of home location and affiliation of these with reserved area by master plan or town and country planning.

28. In case of buildings:-

a) type and structure,

b) locality in which constructed,

c) plinth area,

d) year of construction,

e) kind of material used,

f) rate of depreciation,

g) fluctuation in rates,

h) any special feature having a special bearing on the valuation of the site;

i) the purpose for which the building is being used and the income, if any, by way of rent per annum secured on the building; and

j) relative position and reputation of the area where the building is located.

29. Other factors which the Committee considers necessary."

30. Further it is held that "38 It would be advisable that the circle rates be fixed by expert committees, which not only have officers from the government but also other specialists who understand the market conditions". It is further held that To determine the compensation, the market value of the land must first be computed under Section 26 of the Acquisition Act, 2013. This requires the application of Clauses (a), (b), and (c) of Section 26(1). Clause (b) exemplars in the vicinity to draw a comparison and arrive at the average sale price in terms of Explanations 1 and 2 to Section 26(1). Further, as this acquisition does not involve private companies or public-private partnerships, Clause (c) would also not apply. Therefore, the highest value would be the one determined under Clause (a) or (b), i.e. the market value specified under the Stamp Act.

31. Thus for ready reckoner or rates to be applicable and appropriate instances to be applicable, the committee, acquiring authority, acquisition officer and the arbitrator have to ensure this process. This will authenticate the rates of DPC if any. No such exercise is made in this case which goes to the root of the assessment.

32. The exercise undertaken is to collect some sale-deeds , use some discard some and take up a earlier Ready reckoner stamp duty rate. The basis of this ready reckoner is also not known. Similar sale instances are not considered.

33. Apparently, plots are NA plots use declared by the Tahsildar. It is contended that the said plots lie in no development zone or not by

competent authority and hence, value at higher side cannot be considered. It is necessary to point out that what is meant by "no development zone" is that it does not fall in the notified development plan area. There is no law that prohibits "non agricultural use" only because it is not included in a development plan. The competent authorities are empowered to permit Non-Agri use. The orders passed by the of NA use of the land are not set aside by any of the authorities, even when they are so scrutinized by the authorities, including the authorities who are superior to the issuing authorities.

34. Having considered this, it appears that merely, because the land is not within the development plan of the Government does not imply that it does not have any value or no development can be carried out. The value of the land exists and subsists even beyond development zone. The acquired land and the proposed sale instance by the applicant fall within same category. The value of the land is determined by the vendor and the purchaser as in prevalent circumstance. That is market value. Certain lands may have some drawback or impediments like easementary rights, title rates, etc., but that may depreciate the market value, while other lands may have addition features like plain land, quality, ease of access, nearness of urban area, roads etc. But certainly, one cannot make it a incorrect valuation or non reliable valuation of the property. For it to be discarded in case of acquisition it should be shown to be malafide or inflated or some other cause to show it more. The people who purchased the property in the sale instance referred to have not shown to be done so. Thus it has to be considered as a proper sale instances for consideration and cannot be discarded perse.

35. The lands and ready reckoner rates for such NA lands is not considered, Na potential considering the location of land is also not considered.

Other statutory benefits not considered

36. The Authority has for its own convenience referred to the surveys (although not part of record) but failed to see the JMR even when the same was to be relied upon by the applicants and held that no map is filed for the other benefits.

37. Statutory Compensation of Section 33 of RFCTLARR Act is also not considered or discussed with which are mandatory.

38. In such circumstances, on perusal of the said award, it consider the primary Applicability of NA incorrectly, in appropriateness of belting system for assessing market value of the assets and the land acquired. Secondly, there are no probable reasons except findings of rate of CALA being correct. The ready-reckoner is not accepted for similar category. All these circumstances goes to the root of the entire award and purport of scope of reference to the Arbitrator.

Non speaking order

39. One of the basic aspects of this case is the lack of transparency. A blanket reliance on CALA is made without any record being available. The reliance on the valuation by the said Authority is accepted as Gospel truth without evaluating the same independently..

40. I have refrained myself from fact findings of the case in this regard. Considering that principally, the causes

a) improper non consideration of features of land,

b) non consideration of special features of the property,

c) non consideration of statutory benefit like Section 33, severance charges, etc.,

d) non consideration of proper ready-reckoner rates of proper category make the award against public policy which is one of the ground for setting aside the award under Section 34. Hence, I pass the following order.

ORDER

1)	The application is allowed.
2)	The award (details are as under) is hereby set aside.
3)	No order as to costs.
4)	The record and proceedings be forwarded back to the concerned authority after keeping copy of the same on record.
5)	Civil M. A. No. 15/2022 stands disposed off.

Village	Award No	Dated	Gat No.	Area.
Bhilkheda	Arbitration Petition No. 65 /Samruddhi Mahamarg/Bhilkheda/Tq. Karanja/Dist. Washim/ 2019-20	04/10/2021	3/3	0.2236 H. R.

ANIL SUBRAMANIAM

Digitally signed by ANIL SUBRAMANIAM
Date: 2026.05.02 18:00:39 +0530

Date:- 02/05/2026.

(Anil Subramaniam)
Principal District Judge,
Washim.

CERTIFICATE

I affirm that the contents of this PDF file word to word are same as per original judgment/order.

Name of Stenographer	:	A. W. Ajmire, Steno (G-II)
Court Name	:	Principal District & Sessions Judge, Washim.
Date of order/Judgment	:	02/05/2026
Judgment dictated on	:	02/05/2026
Order/Judgment signed by		
Presiding Officer on	:	02/05/2026
Order/Judgment uploaded on	:	02/05/2026